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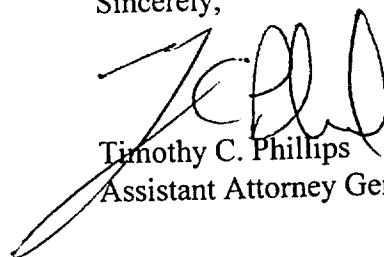
Mr. David Waddell
Executive Secretary
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243-0505

In Re: Generic Docket Addressing Rural Universal Service
Docket No. 00-00523

Dear Mr. Waddell:

I have enclosed an original and thirteen copies of Rebuttal Testimony of Consumer Advocate and Protection Division witness R. Terry Buckner, Senior Financial Analyst, in the above referenced matter. Copies are being furnished to counsel of record for interested parties.

Sincerely,


Timothy C. Phillips
Assistant Attorney General

c: Counsel of record

Before the

TENNESSEE REGULATORY AUTHORITY

In Re: GENERIC DOCKET ADDRESSING RURAL UNIVERSAL SERVICE

Docket No. 00-00523

REBUTTAL TESTIMONY
of
R. TERRY BUCKNER

November 27, 2000

1 **Q. Please state your name for the record.**

2 A. My name is Robert T. Buckner ("Terry").

3

4 **Q. By whom are you employed and what is your position?**

5 A. I am employed by the Consumer Advocate and Protection
6 Division ("CAP") in the Office of the Attorney General and Reporter
7 for the State of Tennessee as a Senior Regulatory Analyst.

8

9 **Q. What is the purpose of your testimony?**

10 A. The purpose of my testimony is to present rebuttal responses to the
11 direct testimony responses by witnesses for Verizon Wireless,
12 Southeastern Competitive Carriers Association ("SECCA"), and
13 AT&T Communications of the South Central States, Inc. ("AT&T")
14 filed with the Tennessee Regulatory Authority ("TRA") on the
15 Preliminary Issues and Threshold Issues as outlined in this Docket.

16

17 **Q. Please respond to the interested parties testimony on Threshold**
18 **Issue 1a. Is a universal service fund needed at this time for areas**
19 **served by rural carriers? If not, when will a fund be needed?**

20

21 A. The Verizon Wireless ("Verizon") view, "that such a
22 Tennessee intrastate universal service fund is not needed at this time

1 because the rural markets are not yet subject to competition,”¹ is
2 indeed unsupported. The implementation of universal service under
3 The Telecommunications Act of 1996 was to “ensure the delivery of
4 affordable telecommunication services.”² The rural users are not to be
5 further punished through higher local service rates because of a lack
6 of competition. Verizon’s opposition, however, is most obviously
7 related to the fact, that as a cellular company, they will have to
8 contribute to the funding of the rural universal service fund
9 (“RUSF”). Verizon’s specious claim that the TRA’s Phase I Order of
10 Docket No. 97-00888, which requires the funding, somehow violates
11 T.C.A. §65-5-207(c)(4) is quite hollow since all cellular companies
12 are required to provide RUSF funding. Consequently, there is
13 competitive neutrality. By its own admission, cellular
14 communications are a discretionary service. Therefore, they are not
15 in direct competition with non-wireless providers, but more of an
16 additive. Verizon’s contentions regarding eligible telecommunication
17 carriers (“ETCs”) are flawed as well. Congress clearly gave the state
18 commissions the right to designate ETCs. Any additional ETC
19 designation by the State Commission for an area served by a rural

¹Brief of Verizon Wireless, dated November 14, 2000.

²FCC Docket 97-157, Universal Service Report & Order, Introduction.

1 carrier must be in the public interest.³

2 The testimony of Richard Guepe of AT&T is similar in his
3 opposition to the implementation of an RUSF. His opposition,
4 however, is more myopic than his wireless cousin. Mr Guepe's
5 recommendation is that the Coalition members increase their local
6 exchange rates to offset the revenue shortfall from the termination of
7 the existing BellSouth toll settlements. He reasons, albeit indirectly,
8 that the cause for the BellSouth termination has nothing to do with
9 competition. The intrastate intraLATA market, however, has been
10 open to competition for some time now. Dialing parity came into
11 existence last year in Tennessee. BellSouth's reported Tennessee
12 intrastate intraLATA long distance revenues have decreased by 42%
13 from year end December 1998 to 12 months ended June 30, 2000.
14 Therefore, simple logic dictates that the Coalition intrastate
15 intraLATA long distance revenues likewise have and will decline due
16 to competitive pressures. To use, Mr. Guepe's own sword, "It is the
17 forces of competition that diminish the revenue streams providing
18 universal support and, thus, create the potential need for a universal
19 service fund."⁴ Certainly, AT&T has seen its long distance business
20 dwindle over the last four years as well. T.C.A. §65-5-207(c) states

³Telecommunications Act of 1996, Sec. 102.

⁴Guepe Testimony, page 3, lines 9-11.

1 in part, "The authority shall create an alternative universal service
2 support mechanism that replaces current sources of universal service
3 support only if it determines that the alternative will preserve
4 universal service, (and) protect consumer welfare." (Emphasis
5 added). Consumer welfare will not be sufficiently protected under
6 the AT&T proposed alternative.

7 While I concur with Mr. Barta's testimony regarding the
8 "natural tension between the goal of preserving universal service and
9 the objective to introduce the benefits of competition to the
10 marketplace,"⁵ I must respectfully disagree with some of his
11 conclusions. His testimony underscores the views of all those in
12 opposition to the RUSF in that there are no statements of empirical
13 evidence to support their positions. Mr. Barta speaks of, "excessive
14 earnings of rural carriers,"⁶ without identifying who the carriers and
15 what the excessive earnings are. Do rural cooperatives have excess
16 earnings? If so, how are they defined? No answers to these pertinent
17 questions are provided. He states that "Universal service
18 support....should be based upon demonstrated financial need."⁷ Yet,
19 no party in opposition has contested through filed testimony the

⁵Barta Testimony, page 4, lines 5-7.

⁶Barta Testimony, page 7, line 18.

⁷Barta Testimony, page 7, lines 25-26.

1 Coalition's claim that given the current circumstances of contract
2 termination translates to an increase of "\$4.10 per access line per
3 month, on average for the 20 Coalition members."⁸
4

5 **Q. Please respond to the interested parties testimony on Threshold**
6 **Issue 1b. Should the current earnings of the rural carrier be**
7 **considered when determining the need and or size of a universal**
8 **service fund? If so, how?**

9 A. Mr. Guepe's response is reflective of most any
10 telecommunications carrier likely to participate in a contributory way
11 to the RUSF. Use anybody's earnings but ours. If earnings are not
12 available, raise the rates to the end user. This attitude defeats the
13 whole intent and spirit of universal service support mechanisms. This
14 attitude should be categorically rejected.
15

16 **Q. Please respond to the interested parties testimony on Threshold**
17 **Issue 2a. Must a rural carrier waive its rural exemption prior to**
18 **receiving funds from a Rural Universal Service Fund?**

19 A. Mr. Guepe's response ignores the Telecommunications Act of
20 1996 and the historical conception of the Coalition members.

21 Frankly, I do not agree with Mr. Barta's overall response to this

⁸Coalition Report, dated September 5, 2000, page 26.

1 question, but I do agree with his conclusion, “There does not appear
2 to be any need for the rural ILEC to waive its rural exemption as a
3 condition to receiving distributions from a Rural Universal Service
4 Fund.”⁹

5
6 **Q. Please respond to the interested parties testimony on Threshold**
7 **Issue 2b. Must a rural carrier provide unbundled network**
8 **elements prior to receiving funds from a Rural Universal Service**
9 **Fund?**

10 A. Again, Mr. Guepe’s response ignores the Telecommunications Act
11 of 1996. Mr. Barta’s response is based partly on the existence of
12 “effective competition.”¹⁰ There is nothing in state law, however,
13 which defines “effective” competition. A view of the current national
14 telecommunications landscape is hardly a picture of effective
15 competition. The remaining RBOCs are being fined by state and
16 federal commissions for poor service and dilatory conduct. The
17 surviving CLECs serve niche markets. Certainly, there is no evidence
18 of effective competition in the residential local service market in
19 existence in Tennessee today. It seems inconceivable that the TRA
20 would want to unbundle the network elements of the Coalition

⁹Barta Testimony, page 8, lines 18-20.

¹⁰Barta Testimony, page 8, lines 16, 27-28.

1 members. The cost of doing so would be particularly egregious to the
2 Coalition members, who are serving rural customers whom no one
3 wanted to serve from the very beginning.
4

5 **Q. Please respond to the interested parties testimony on Preliminary**
6 **Issue 1b. Should advanced telecommunication services be**
7 **supported by an intrastate Rural Universal Service Fund?**

8 A. Obviously, Verizon witness W. Chris Jones wants to minimize
9 financial exposure in the RUSF for Verizon and its shareholders. To
10 do this, he advocates funding “core” services only. To corroborate,
11 he offers some testimony that rural areas, though not specific to
12 Tennessee, share some sort of parity with urban areas in terms of
13 what services are available. While I do not recommend excess
14 financial exposure for any telecommunications providers, the veracity
15 of his parity testimony, however, is not the core issue. The core issue
16 is the necessity for a RUSF to ensure that all Tennesseans may have
17 affordable access to advanced telecommunication services in the near
18 future.

19 All of the parties in opposition to the inclusion of advanced
20 telecommunication services for RUSF support simply ignore the
21 federal rule of law as found in the Telecommunications Act of 1996,
22 Section 254(b)(2) and the reality of the circumstances confronting the

1 Coalition members and their customers.

2 I do not agree with Mr. Barta's statement that by obligating the
3 carriers to contribute to the RUSF, they are subsidizing all service
4 offerings of their monopolist rival. Monopolists have no rivals.

5

6 **Q. Please respond to the interested parties testimony on Preliminary**
7 **Issue 3a. Is a Rural Universal Service fund necessary to ensure**
8 **affordability of rates in rural areas?**

9 A. Mr. Barta contends that, "absent a rate review and earnings
10 investigation of each rural ILEC, it cannot be assumed that a Rural
11 Universal Service Fund is necessary to ensure affordability."¹¹
12 T.C.A. §65-5-207(d) states rightly, "The authority shall monitor the
13 continued functioning of universal service mechanisms and shall
14 conduct investigations, issue show cause orders, entertain petitions or
15 complaints, or adopt rules in order to assure that the universal service
16 mechanism is modified and enforced in accordance with the criteria
17 set forth in this section."

18 It is my contention, that absent the evidence of excess earnings
19 through any recent authority proceedings and the undisputed claim of
20 the Coalition, a RUSF is necessary to ensure affordability of rates in
21 rural areas.

¹¹Barta Testimony, page 10, lines 30-31.

1 **Q. Please respond to the interested parties testimony on Preliminary**
2 **Issue 3b. How should affordability of rates in rural areas be**
3 **determined?**

4 A. Mr. Guepe makes the statement that “affordable rates are in excess
5 of existing rate levels.”¹² This statement should be viewed by the
6 TRA as with extreme skepticism, because AT&T offers no empirical
7 evidence for such a statement. It is merely a self-serving opinion.
8

9 **Q. Please respond to the interested parties testimony on Preliminary**
10 **Issue 7a. Should wireless-to-wireless calls and calls with wireless**
11 **termination be included in the Rural Universal Service Fund?**

12 A. A statement of clarification and correction is warranted. To the
13 extent that compensation is lost by the small LECs for terminating
14 traffic from wireless callers, this amount should be considered in the
15 RUSF. With respect to other wireless activity, I concur with
16 Coalition witness, Steven E. Watkins on this issue.
17

18 **Q. Does this conclude your rebuttal testimony?**

19 A. Yes.
20
21

¹²Geupe Testimony, page 9, lines 6.

BEFORE THE TENNESSEE REGULATORY AUTHORITY
AT NASHVILLE, TENNESSEE

IN RE: GENERIC DOCKET)
ADDRESSING RURAL UNIVERSAL) DOCKET NO. 00-00523
SERVICE)
)

AFFIDAVIT

I, R. Terry Buckner, Senior Financial Analyst for the Consumer Advocate and Protection Division of the Attorney General's Office, hereby certify that the attached Rebuttal Testimony represents my opinion in the above referenced case and the opinion of the Consumer Advocate and Protection Division.

R. Terry Buckner

Sworn to and subscribed before me
this 27th day of November, 2000

Teresa A. Harris
NOTARY PUBLIC

My commission expires on: January 25, 2003

Certificate of Service

I hereby certify that a true and correct copy of the foregoing Rebuttal Testimony of R. Terry Buckner was served on parties of record via U.S. Mail, postage prepaid, this 27th day of November, 2000.

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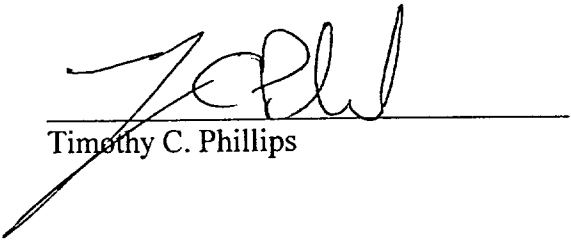
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